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this Memorandum Decision shall not be  
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establishing the defense of res judicata,  
collateral estoppel, or the law of the case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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C.G.,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 42A01-0608-JV-326
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Petitioner.	)	

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APPEAL FROM THE KNOX SUPERIOR COURT  
The Honorable W. Timothy Crowley, Judge  
Cause No. 42D01-0601-JD-2

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**February 6, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## **Case Summary**

Appellant-Respondent C.G. appeals the juvenile court's denial of his Motion for Review of Sentence. We affirm.

## **Issue**

C.G. raises the issue of whether the juvenile court imposed an illegal disposition.

## **Facts and Procedural History**

On January 14, 2006, thirteen-year old C.G. and his friend went to a Vincennes grocery store wearing masks and gloves, and C.G. threw a twenty-pound weight through the glass of the front door. Once the glass broke, the boys ran to the friend's home and watched the front of the store. Observing no police or ringing security alarm, the boys ran back to the store and took some money from the office desk. The boys proceeded back to the friend's home once again to watch for police. Still observing no police, the boys went back into the store and soon thereafter the security alarm was triggered. The police apprehended the boys as they attempted to leave.

On January 27, 2006, the State filed a delinquency petition alleging C.G. had committed an act that would have been Burglary as a Class C felony<sup>1</sup> if he were an adult. During the Initial Hearing on January 31, 2006, C.G. admitted to the allegations in the delinquency petition, and the trial court found C.G. to be a delinquent child. An Agreed Order Concerning Disposition ("Agreed Order") was submitted to and adopted by the juvenile court. The Agreed Order provided in part that:

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<sup>1</sup> Ind. Code § 35-43-2-1.

[C.G.] be made a ward of the Indiana Department of Correction for housing in a juvenile facility for boys with said placement suspended to Formal Probation for a period of 2 years. While on probation, it is ordered that [C.G.] comply with the following terms: complete 30 additional days of Electronic Monitoring through the Knox County Probation Department Home Monitoring Program and complete forty-nine (49) hours of community service supervised through the Wabash Valley Regional Community Corrections Program including the payment of all related fees.

Appellant's Appendix at 5. C.G. did not appeal his disposition.

On March 13, 2006, the juvenile court found, pursuant to C.G.'s admission, that C.G. had violated his probation. The juvenile court continued C.G. on probation and ordered C.G. to be on electronic home monitoring for an additional sixty days.

On March 30, 2006, the State filed a petition to revoke C.G.'s suspended placement due to C.G. cutting off his electronic bracelet and fleeing the state. The juvenile court held a hearing on the petition at which counsel for C.G. argued, for the first time, that the disposition imposed by the adoption of the Agreed Order was illegal in regards to Indiana Code Section 31-37-19-10. The hearing was continued and the next day, counsel for C.G. filed a Motion for Review of Sentence. At the continuation of the hearing, the juvenile court heard arguments on the motion and subsequently denied it. Furthermore, the juvenile court found C.G. to be in violation of his probation, revoked C.G.'s suspended placement, and ordered him a ward of the Department of Correction. C.G. now appeals.

### **Discussion and Decision**

Before addressing the merits of the case, we note that where a juvenile respondent seeks to challenge on appeal the validity of a guilty plea, he must do so through the vehicle of an Indiana Trial Rule 60(B) Motion for Relief from Judgment. W.T.J. v. State, 713 N.E.2d

938, 940 (Ind. Ct. App. 1999). We consider C.G.'s motion as one for relief from judgment under the Rule.

On appeal, C.G. contends that his disposition placing him as a ward of the Department of Correction is illegal, because the circumstances do not meet the requirements set out in Indiana Code Section 31-37-19-10. This section provides in pertinent part:

(a) This section applies to a child who:

(1) is adjudicated a delinquent child for an act that if committed by an adult would be: . . .

(C) burglary as a Class A or Class B felony under IC 35-43-2-1;

(2) is at least fourteen (14) years of age at the time the child committed the act for which the child is being placed; and

(3) has two (2) unrelated prior adjudications of delinquency for acts that would be felonies if committed by an adult.

If these requirements are met, a juvenile court may only place a child in a facility authorized in the code chapter for up to two years. I.C. 31-37-19-10(b). C.G. argues and the State concedes that the requirements of age and prior adjudications were not met and Section 10 does not apply. However, this does not end our discussion, because neither the Agreed Order nor the juvenile court's order revoking C.G.'s probation referenced the statute under which C.G. would become the ward of the Department of Correction. Furthermore, Section 10 is not the only statute permitting a juvenile court to make C.G. a ward of the Department of Correction. Indiana Code Section 31-37-19-6 provides in part:

(a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter and subject to section 6.5<sup>[2]</sup> of this chapter, the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Under Section 6, a court may award wardship without a restriction on length of placement.

The Agreed Order provided that C.G. “be made a ward of the Indiana Department of Correction for housing in a juvenile facility for boys with said placement suspended to Formal Probation for a period of 2 years.” App. at 5. The order revoking C.G.’s probation similarly awards wardship of C.G., with placement at a correctional facility for children, without a specification of time. App. at 46. The suspended placement in the Agreed Order and the order revoking the suspension, making C.G. a ward of the Department of Correction, is within the juvenile court’s statutory authority pursuant to Indiana Code Section 31-37-19-6. Therefore, we conclude that the disposition making C.G. a ward of the Department of Correction was within the juvenile court’s statutory authority. The juvenile court did not err in denying C.G. relief from his disposition.

Affirmed.

VAIDIK, J., and BARNES, J., concur.

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<sup>2</sup> Section 6.5 does not apply here as it involves placement restrictions to avoid a child being housed with a person who has committed an act resulting in a report of child abuse or neglect. Ind. Code § 31-37-19-6.5.